fact that the court will not permit the want of independent recollection to serve as an avenue for the admission of incompetent evidence.

INFANTS—RIGHT OF ACTION FOR INJURY TO UNBORN CHILD.—The plaintiff sued for injuries received 36 days before his birth, through the negligent starting of defendant's car while plaintiff's mother, who was a passenger on said car, was alighting therefrom. It was alleged that the injuries resulted in the plaintiff's being born with a deformity, and with a less than normal nervous and physical condition. *Held,* the plaintiff has no right of action for the said injuries. *Nugent* v. *Brooklyn Heights R. Co.* (1913), 139 N. Y. Supp. 367.

The decision in the principal case is based on the proposition that the relation of carrier and passenger did not exist between the defendant company and the plaintiff *en ventre sa mere,* and therefore that the defendant owed the plaintiff no duty which had been violated. The case of *Walker* v. *Great Northern Ry. Co.,* 28 L. R. (Ir. 1890) 69, which was relied upon in the principal case, refused a recovery under similar circumstances, likewise on the ground that no relation of passenger and carrier existed between the parties. In *Allaire* v. *St. Luke's Hospital,* 184 Ill. 359, 56 N. E. 638, 48 L. R. A. 225, 75 Am. St. Rep. 176, recovery was also refused, but on the ground that the child had no legal existence apart from its mother. (But see the strong dissenting opinion of Mr. Justice BOGGS.) That same conclusion, that the unborn child has no legal existence apart from its mother, was reached in *Dietrich* v. *Northampton,* 138 Mass. 14, 52 Am. Rep. 242. See also *Gorman* v. *Budlong,* 23 R. I. 169, 49 Atl. 704, 55 L. R. A. 118. It is admitted, however, that a child *en ventre sa mere* has a legal existence for many purposes. 1 BLACK., COMM. 130; *The George & Richard,* L. R. 3 Adm. & Ecc. 466; *Nelson* v. *G., H. & S. A. Ry. Co.,* 78 Tex. 621, 11 L. R. A. 391, 14 S. W. 1021; 4 COOLEY'S BLACK., COMM., 197; *Phillips* v. *Herron,* 55 Oh. St. 478, 45 N. E. 720; *Turley* v. *Turley,* 11 Oh. St. 173; *McArthur* v. *Scott,* 113 U. S. 340, 28 L. Ed. 1015, 5 Sup. Ct. 652. The principal case admits that the unborn child was an entity, and that it was not a trespasser, but says the defendant owed it no duty because it was not a passenger. It seems to be still an open question, therefore, whether such an action could be maintained if it did not depend upon the existence of such a relation. For a note on this general subject, see 1 MICH. L. REV. 138.

INSURANCE—APPORTIONMENT AMONG COMPOUND AND SPECIFIC POLICIES.—An owner of a double house held two compound policies insuring the entire house; also one specific policy insuring each part separately. Each policy provided: "If there shall be other insurance * * * the insured shall recover on this policy no greater proportion of the loss sustained than the sum hereby insured bears to the whole amount insured thereon." *Held,* to determine the total insurance on each part of the house, each compound policy should be apportioned between the two parts in proportion to the value of the parts and the result added to the specific policy on that part. *Taber* v. *Continental Insurance Co.,* (Mass. 1913), 100 N. E. 636.

At least three distinct rules, each more or less arbitrary, have been ap-